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when interlocked.

Claim 16 (original): The slider/zipper assembly as recited in claim 15, wherein said membrane is folded.

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Claim 17 (original): The slider/zipper assembly as recited in claim 15, wherein said membrane is connected to said first and second interlockable profiled structures at different elevations.

Claim 18 (original): The slider/zipper assembly as recited in claim 15, wherein said membrane has a free edge.

REMARKS

At the outset, the Applicants note that claims 5 and 6 (and claim 8 dependent thereon), directed to the embodiment wherein a membrane is connected to only one of the male and female members of the zipper, have been canceled. Also, independent claims 7 and 15 have been amended to recite that the membrane is connected to both profiled structures of the zipper, as already recited in independent claim 1. Lastly, independent claim 12 (as well as claim 7) has been amended to clarify that the membrane is connected to the profiled structures of the zipper to form a tamper-evident seal in the package.

In response to the objection to the drawings, claim 11 has been canceled.

In the Office Action, claims 1-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,047,450 to Machacek in view of U.S. Patent No. 4,892,414 to Ausnit. In support of the rejection, the Examiner asserts that

it would have been obvious to employ the membrane of Ausnit in the bag of Machacek to provide a tamper-evident or leak-proof feature. The Applicants traverse this ground of rejection for the following reasons.

The Machacek patent discloses reclosable bags having slider-operated zippers. It is well known in the art that it is undesirable to include any kind of tamper-evident feature that would interfere with proper operation of the slider of a slider-zipper assembly. In the case where the bag designer would desire a feature that prevents tampering with the contacts of the package, certain tamper-evident features are well known, such as a tear-away header that shrouds the slider-zipper assembly, a peel seal placed between the zipper sealing flanges or a membrane integrally formed with and suspended between the zipper flanges. None of these tamper-evident features would interfere with proper operation of the slider. The header is removed before the slider is operated, while the peel seal and internal membrane are not proximate to the slider and so are not in contact therewith. The designer could select any one of these tamper-evident features without fear that the slider operation would be interfered with. This is true for both sliders having separating fingers and sliders having no separating fingers.

In contrast, it is not obvious that inserting a membrane that occupies the interstice between the interlocked zipper profiles would not interfere with proper operation of the slider. In fact, in the case of a slider with separating finger,

the separating finger would necessarily contact the membrane during slider travel, which could cause the slider to snag on the membrane. Therefore, it would be undesirable to use such a membrane in conjunction with a slider that has a separating finger.

Nor would it be obvious to use such a membrane in conjunction with a slider that has no separating finger. The ability to make such an arrangement fully operable would require that the membrane be designed so as not to interfere with slider travel or with actuation of the zipper during slider travel. To the person skilled in the art, it would not be obvious that such a slider-zipper assembly with tamper-evident membrane would be workable. Therefore, it would not be obvious to combine the membrane of Ausnit with the slider-zipper assembly of Machacek.

In addition, the Examiner has failed to find any motivation in either reference for combining their respective teachings. The Ausnit patent discloses zippers that are unsuitable for use with a slider. In fact, the Ausnit patent nowhere mentions sliders. The Ausnit patent discloses sealing gasket means in the form of a thin tongue flange (e.g., item 33 in FIGS. 2 and 3. "The principal aim is to assure that when the zipper 27 is closed, a thoroughly fluid tight relationship is attained throughout the length of the zipper with which the gasket flange 33 should be coextensive." [Col. 3, lines 19-23; emphasis added.]

The Machacek patent does not mention the addition of any tamper-evident feature. Machacek does, however, disclose providing the zipper with a leak-proof seal. For example, the Machacek patent states: "The surfaces of the fulcrum members 32, 34 are contoured to create a leak proof seal between the interlocked profiles 12, 14 at the fulcrum 36." {Col. 3, lines 44-47; emphasis added.} Machacek further states: "The close tolerances and dimensions of the male interlocking member 16 and the female interlocking member 20 ensure a tight interlock between the profiles that provides leak proof properties." [Col. 3, lines 27-30; emphasis added.]

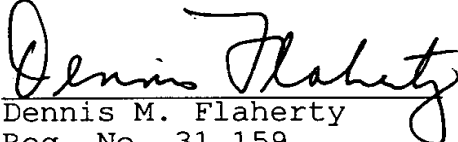
Thus, both Machacek and Ausnit disclose a zipper that is leak-proof. There is no obvious reason why the leak-proof feature of Ausnit, namely, the sealing gasket, should be imported into the Machacek zipper when the latter is already leak-proof. Moreover, if a person chose to add a tamper-evident feature to Machacek, it would also not be obvious to import the gasket of Ausnit since its use with a slider would be possibly problematic and since well-known problem-free tamper-evident features, such as header, peel seals and membranes connecting the zipper flanges, were known and readily available. Accordingly, one can find no motivation for importing the gasket of Ausnit into the slider-zipper assembly of Machacek. Without such motivation, the Examiner has failed to make a *prima facie* case for obviousness of Applicant's claimed invention.

Atty. Docket: ITW-13115

In view of the foregoing, the Applicants submit that this application is now in condition for allowance. Reconsideration of the application and allowance of claims 1-4 and 7-18 are hereby requested.

Respectfully submitted,


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Date


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